

REMARKS

The Examiner's action of March 24, 2004 is noted in which the claims are variously rejected under 35 USC 102(e) and 35 USC 103, under both the Schultz reference (based on a Provisional Patent Application) and in view of Cristofich et al. reference.

Applicant provides herewith a Rule 131 Declaration swearing behind the Schultz reference, showing a conception of the claimed invention prior to January 14, 2000, the date of the Provisional Application on which the non-provisional Application is based. The Rule 131 Declaration also clearly shows diligence to an actual reduction to practice as of June 23, 2000, as evidenced by an article in the San Francisco Chronicle indicating testing of the claimed system.

Removal of the Schultz reference is therefore requested.

This leaves the rejection of Claims 1 and 3-16 as being anticipated by the Cristofich et al. reference under 35 USC 102 and Claim 2 under 35 USC 103 in view of Cristofich et al.

At the very outset it is noted that the claimed invention relates to the modeling of a projected outcome customized to the individual's needs. Support for this in the Specification can be seen on page 5, lines 13-18 in the Summary of the Invention, in which it is said that the system is designed:

“[t]o help individual's [*sic*] take control of their own financial future, ...
[I]n the subject system, this information is presented over the Internet in a way in which what is presented to the user is ... customizable to the individual's particular situation ...”

Further, it is said on page 5:

“For this purpose, a number of tools and calculators are provided to permit modeling customized to fit the individual's needs.”

Nowhere in Cristofich et al. is modeling customized to the individual's needs shown or taught.

In point of fact, Cristofich et al. teaches away from the individual controlling the transaction. According to Cristofich et al., the entire purpose of this system is to help companies that are "not equipped to handle the transactional attributes of stock option processing on a scale above a handful of participants" (Column 1, Lines 55-57). Moreover, in the Summary of the Invention in Cristofich et al.:

"It is an object of the present system to provide a data processing system for managing a plurality of individual accounts directed to the holding and transacting of options for the purchase of securities in accordance with pre-established plan criteria." (emphasis supplied).

It is thus clear that the entire Cristofich et al. patent is directed to how to handle processing of option exercise requests from a large number of employees. In point of fact, the options are automatically exercised and monies dispensed in appropriate currencies according to Cristofich et al.

It is noted that this function has nothing to do with modeling. It has nothing to do with a "what if" scenario to be able to customize a service; and is not in any way directed to an individual customizing his or her own plan. Thus in Cristofich et al. is it not contemplated that an individual can "customize" his or her plan so as to be able to maximize their personal situation.

All that Cristofich et al. teaches is that an individual may direct the Cristofich et al. system to exercise an option and to state the result of the execution. The Cristofich et al. system in fact operates "in accordance with pre-established plan criteria" (Column 2, Lines 35-36).

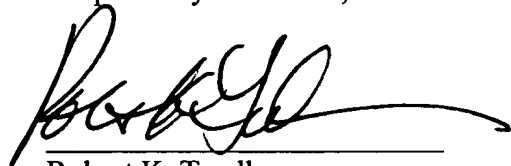
This being the case, Cristofich et al. fails to teach or suggest that an individual can take charge of his or her own financial situation and make decisions, based on a model, on how to maximize return on investment.

In short, Cristofich et al. is simply a data warehousing and transaction machine with pre-established rules that is used for the convenience of companies that are offering a large number of employees the opportunity to participate in stock option plans. The Cristofich et al. system leaves the individual completely in the dark as to what to do with his or her stock options and certainly provides no tools in the form of models to customize a plan by understand the consequences of the individual's own actions with respect to his or her stock options.

For this reason it is clear that the Cristofich et al. reference does not and cannot anticipate the claimed subject matter. By its own declarations, the Cristofich et al. system is a transactional system for the convenience of companies administering stock option plans.

In view of this Amendment, allowance of the claims and issuance of the case is earnestly solicited.

Respectfully submitted,



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Date:

June 22, 2004